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**From:** Tozzi, Lauren [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=98ACF7F50923404D9491D4F885D34C27-TOZZI, LAUREN]  
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**Subject:** FYI - Citizen Suit Filed against Diesel Brothers  
**Attachments:** 20170111 Zars Complaint Filed Againts Diesel Bros.pdf

Hey folks,

FYI - Utah Physicians for a Healthy Environment filed a citizen suit against Diesel Brothers in Utah district court yesterday. Complaint is attached.

Claims and relief requested –

- Claims that from November 2011 to the present, DB have violated the Clean Air Act (203(a)(3)(A) and (B)) and Utah's State Implementation Plan (note that DB are located in a non-attainment area).

- Claims that DB's activities have caused certified diesel vehicles to exceed federal emissions standards by 30 times or more by removing and/or tampering with OBD, emission control devices, DPF, SCR, EGR, and catalytic converters.
- Injunctive relief requested includes the following:
  - Permanently stop tampering with emissions controls, driving tampered vehicles, and selling tampered vehicles and defeat devices;
  - Identify, locate, recall, repurchase, and return "fully compliant emissions status" all motor vehicles and engines modified;
  - Finance supplemental relief to reduce air pollution in the areas affected; and
  - Make regular submissions to defendant of all "facts and reports" necessary to ensure complete and continuing compliance.
- Orders DB to pay a civil penalty (to the federal treasury) of \$37,500 to \$93,750 per day for each tampered vehicle they've owned, operated or built in Utah.
- Orders another \$100,000 for air quality mitigation projects.

Quick summary of how Zars/Utah Physicians (UPHE) bring the suit under the citizen suit provision –

- Citizens may bring suit under CAA Section 304(a) for a violation "of an emission standard or limitation."
- UPHE argues that the CAA's tampering and defeat device prohibitions are emission standards or limitations because they limit the "quantity, rate, or concentration of emissions of air pollutants on a continuous basis." These prohibitions are also requirements relating to design, operation, maintenance, and operational standards.
- Thus, since the tampering and defeat device regulations are emission standards or limitations, UPHE has authority to bring this enforcement action.

I'll be keeping tabs on the docket.

Lauren Tozzi, Attorney-Advisor  
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20170111 Zars  
Complaint Filed ...